

REMARKS

In the Amendment, claims 1-2, 9, 16, 19, 23-27, 31-33, and 37-47 are amended such that claims 1-10, 12-20, 23-34, and 36-47 are pending in this application. Applicants respectfully request allowance of all the pending claims.

Oath/Declaration

The Examiner indicated that the reissue oath/declaration is defective because it fails to identify at least one error which is relied upon to support the reissue application and because it fails to contain a statement that all errors being corrected in the reissue application up to the time of filing of the oath/declaration arose without deceptive intent.

Applicants thank the Examiner for the telephone interview conducted April 16, 2007 with the attorney of record, Gayle A. Bush. During the interview the Examiner and Ms. Bush discussed the Reissue Application Declaration by the Assignee that was filed with the reissue application, a copy of which is attached for your reference. It was agreed that a statement that the errors "arose without any deceptive intention on the part of the applicant" was included in the declaration at the top of page 3. The Examiner recommended that a supplemental declaration be submitted with this response and identify at least one specific error in the original patent.

In response, Applicants submit the attached Supplemental Declaration by the Assignee for Reissue Patent Application to Correct "Errors" Statement (37 CFR 1.175). Examiner is specifically directed to the section starting near the bottom of page one, which identifies at least one error and states a lack of deceptive intent up to the time of the filing of the oath/declaration.

Claim Rejections - 35 U.S.C. § 251

The Examiner rejects claims 1-10, 12-20, 23-24, and 36-47 under 35 U.S.C. §251 as being based upon the defective reissue Declaration. Applicants submit that the newly submitted Supplemental Declaration corrects previous defects and respectfully request the rejection based on a defective oath/declaration be withdrawn.

The Examiner also rejects claims 1-10, 12-20, 23-24, and 36-47 under 35 U.S.C. §251 as being broadened in a reissue application filed outside the two year statutory period. Applicants submit that in light of the following remarks and current amendments to the claims that the pending claims include no broadening of the claimed subject matter and therefore are in condition for allowance.

The Examiner identifies four specific phrases as broadening the claims. First, that “liquid heat transfer medium” broadens “fluid.” The Examiner’s attention is drawn to at least col. 9 lines 51-55 and col. 3 lines 15-17 of the reissue specification. A “fluid” as originally claimed is more broad than the newly used “liquid heat transfer medium” because a “fluid” can comprise both vapors/gases and liquids while a “liquid heat transfer medium” comprises only liquids. Thus “liquid heat transfer medium” does not broaden the claim scope as applied to claims 1, 9, 16, 19, 23-27, 31, and 37-47, and the rejection to these claims should be withdrawn.

Applicants submit the rejection to the word “disposed” in the claims 9, 16, 19, and 23-26 is moot in view of the claim amendments.

The Examiner rejects claims 27-34 as not including a “food product-receiving chamber” limitation. Applicants submit the rejection is moot in view of current amendments. Applicant notes that claim 27 includes a “food product-receiving chamber.” The “perforate drum” in currently amended claims 31 and 32 includes all of the limitations of the “food product-receiving chamber” and is more narrow in scope than “food product-receiving chamber.” Therefore the currently amended claims 31 and 32 are not broader than the original claims and the broadening rejection in this respect should be withdrawn.

Finally, the Examiner rejects claims 37-43 as not including a “food product inlet” and “food product outlet.” Applicants submit the rejection is moot in view of the claim amendments.

Claim Rejections - 35 U.S.C. §112(1)

The Examiner rejects claims 1-10, 12-20, 23-34, and 36-47 for failing to comply with the written description requirement. Applicant submits that in light of the following remarks and current amendments to the claims that the claims as currently presented include no new matter and are in condition for allowance.

Applicants presently amend the claims to include a “manifold” rather than a “header.” A manifold is disclosed in the original disclosure as element number 96, at least at Figs. 1-2 and 4-5 and at column 11, lines 61-62.

The phrase “liquid heat transfer medium” is supported in the original disclosure by element number 26 in Figs. 5-9, and at least at column 4, line 51, column 13, line 23, and column 16, line 16.

The rejection to the phrase “disposed therein” is moot in view of the claim amendments.

Conclusion

In view of the above amendments and remarks, the Applicants submit that the claims, as amended, are novel and patentable over the prior art, that all the rejections to the claims have been overcome, and that the application is in condition for allowance. Early, favorable consideration is respectfully requested. Applicants kindly request that the Examiner telephone the attorney of record in the event a telephone discussion would be helpful in advancing the prosecution of the present application.

Respectfully submitted,



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